

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

SECOND APPEAL NO. 200 OF 2007

Smt. Haushabai Tulsiram Gawali and another	.. Appellants
v/s.	
Ramchandra Dhondiram Shelke and another	.. Respondents

Mr. Niranjana P. Shimpi for the appellants.

CORAM : A.M. KHANWILKAR, J.
DATED : 10TH JULY, 2007

P.C.

Heard counsel for the appellants.

2. In my opinion, no substantial question of law arises for consideration. Counsel for the appellants would contend that the court below has relied on the evidence of surveyor who has failed to produce 'A' sheet map. In the absence of 'A' sheet map, there was no other legal evidence to support the claim of the plaintiff. This argument clearly overlooks that the plaintiff has produced 'C' copy of the original map. That has been admitted in the evidence. Once that copy is brought on record and has been proved, coupled with the fact that the Surveyor has entered the witness box and his evidence supports the claim of the plaintiff, non-production of 'A' sheet map will not be fatal to the plaintiffs' case. There is nothing to show that the 'C' copy of the original map produced by the plaintiff is defective in any manner. If that is the case of the appellants, that ought to have been established during the trial. That evidence is not forthcoming. Thus understood, the fact that 'A' sheet map has not been filed which is any other official document will make no difference and particularly when the Surveyor has entered the witness box and deposed on the relevant facts which evidence has been found to be trustworthy and accepted by the lower court.

3. The next argument of the appellants is that the appellants had examined one Pandharinath Pandurang Nirgude whose evidence has not been considered by the appellate court at all. Even so, the finding of fact recorded by the appellate court which is founded on documentary as well as oral evidence of the plaintiff and surveyor, that finding cannot be overturned on the basis of the evidence of private witness examined on behalf of the appellants.

4. Be that as it may, no substantial question of law arises. Dismissed.

(A.M. KHANWILKAR, J.)